

REMARKS

Claims 1, 5, 7-9, 11, 12, 15, 17-19, 21, 23 and 25-33 are now pending in the application, with claims 1 and 11, 29 and 33 the the being the independent claims. Reconsideration and further examination are respectfully requested.

Initially, Applicants thank the Examiner for the telephonic interview conducted with Applicants' attorney on December 1, 2006. During that telephonic interview, the Examiner agreed to withdraw the finality of the current Office Action based on the present rejection of claim 11 over new art. In addition, the Examiner and Applicants' attorney discussed the prior-art rejections, but no agreement was reached.

In the amendments above, claims 10, 20, 22 and 24, which were withdrawn from further consideration following Applicants' election in the Response filed May 16, 2006, have been canceled above.

In the Office Action, claims 1, 5-6, 9, 11-12, 15-16 and 19 were rejected under 35 U.S.C. § 103(a) over U.S. Patent 6,795,092 (Nagai) in view of U.S. Patent Application Publication Number 2003/0023970 (Panabaker); and claims 7-8, 17-18, 21 and 23 were rejected under § 103(a) over Nagai in view of Panabaker and RFC 1321 (Rivest). Withdrawal of these rejections is respectfully requested for the following reasons.

The present invention concerns systems, methods and techniques for delivering and receiving programming content, such as movies, video games and other types of computer software. The programming content, divided into chunk files, as well as a manifest file for describing how to execute and/or play the various individual chunks, is sent or received using a combination of electronic transmission and delivery on a physical storage medium. Such multi-

path delivery can be usefully employed, e.g., in connection with piracy prevention and other security applications, as well as for providing backup transmission redundancy.

Thus, independent claim 1 is directed to a method for use in delivering programming content. Initially, programming content is divided into smaller chunks of data, the programming content including (i) a software program and/or (ii) content for playing on an electronic device. A chunk file is created for each chunk of data and a manifest file is generated, the manifest file including information describing how to execute and/or play the chunks of data. Finally, the created chunk files and the generated manifest file are transmitted to a remote location, with at least one of the files being transmitted electronically and at least one of the files being transmitted on a physical storage medium.

The foregoing combination of features is not disclosed or suggested by the applied art. For example, no permissible combination of Nagai and Panabaker would have disclosed or suggested at least the feature of transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, where at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium.

In this regard, Nagai has been studied in detail, particularly the portions thereof cited by the Examiner. As best understood by Applicants, Nagai appears only to disclose the creation and provision of a digest for a multimedia document. By providing such a digest, the end user can determine whether any portions of the document are relevant to his or her needs, without the necessity of accessing or transmitting the entire document, thereby reducing access or transmission times. See, e.g., the Abstract and column 1 lines 1-50 of Nagai. In order to create

the digest, Nagai selects and includes within the digest only the most representative scenes. See, e.g., column 5 lines 8-21 of Nagai.

It is asserted in the Office Action that column 5 lines 24-33 of Nagai discloses the transmission of chunk files and a manifest file. However, that portion of Nagai only appears to discuss the structure of an ordinary general-purpose computer, as illustrated in Nagai's Figure 3. Moreover, as noted above, it appears that in Nagai only a digest of a specified multimedia document is transmitted to a remote location.

The Office Action acknowledges that Nagai does not teach the present invention's feature that when transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium. In order to make up for this deficiency, the Office Action cites Panabaker.

In particular, the Office Action asserts that Panabaker "teaches a method of distributing programming content which includes a manifest file, in which some files are transmitted electronically and some files are transmitted on a physical medium (paragraph 59)." The Office Action then concludes that it would have been obvious to combine Panabaker with Nagai in order to achieve the present invention, as recited in independent claim 1, "because sending a manifest file electronically allows quicker updates of presentation data."

At the outset, it is noted that Panabaker appears to discuss the provision of both audio/video programming and enhanced programming content to an end user. The enhanced programming content is presented in accordance with a defined schema and apparently supplements the audio/video programming, typically providing for some interactive capabilities. See, e.g., paragraph 46 of Panabaker. In the principal embodiment discussed in Panabaker, an

encoder module 212 combines the original audio/video programming with the enhanced programming content (as interpreted from the defined schema) for transmission to the end user. See, e.g., paragraph 55 of Panabaker.

Paragraph 59 of Panabaker appears to describe two somewhat related alternate embodiments of Panabaker's technique. In the first, the encoder module 212 is omitted and the end user's receiver itself inserts the enhanced programming content into the audio/video programming. As noted in this paragraph of Panabaker, such an embodiment might be used, e.g., where the audio/video programming and the enhanced content are stored together on a CD or DVD.

In the second related embodiment described in paragraph 59, "the enhanced programming experience can be delivered to receiver module 216a-216n separately from the audio/video programming." That is, the enhanced programming information (content and schema) is delivered in a different manner than the underlying audio/video programming (i.e., through a different path). For example, the enhanced programming information may be delivered by e-mail or upon a physical storage device, while the underlying audio/video programming is broadcast.

Both of the alternate embodiments described in Panabaker's paragraph 59 are different than what is recited in independent claim 1. As noted above, independent claim 1 recites the feature of transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, where at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium.

The only feature of Panabaker which even arguably corresponds to the presently recited manifest file is Panabaker's schema file. However, it appears that in Panabaker either the schema file never is delivered to the end user (i.e., because it is used only by encoder 212) or the schema file is delivered in the same manner as the enhanced programming content to which it corresponds. Although Panabaker discloses that the enhanced programming information (content and schema) may be delivered in a different manner than the underlying audio/video programming, this feature is different than what is recited in independent claim 1.

Because neither Nagai nor Panabaker discloses the above-referenced feature of the invention, no permissible combination of these two features could have suggested the present invention as recited in independent claim 1. In this regard, it is noted that MPEP § 2142 requires that in order to establish a *prima facie* case of obviousness, the Examiner must cite prior art references that teach or suggest all of the claim limitations.

In addition, Nagai and Panabaker are directed to significantly different problems. As noted above, Nagai concerns the creation and delivery of a digest for the purpose of providing an overview of the content within a multimedia document. Panabaker concerns the delivery of enhanced programming content, primarily for the purpose of providing an interactive experience. It is not clear that one of ordinary skill in the art would have been motivated to combine the teachings of these two references in any manner whatsoever, much less in any way that would have resulted in the present invention.

The Office Action asserts that it would have been obvious to combine the references "because sending a manifest file electronically allows quicker updates of presentation data." First, it is not clear that this statement is correct. Often, reading a file from a storage medium is much faster than receiving it across a network, such as the Internet. Second, even if true, it is

unclear how such an observation would have motivated one to combine any relevant feature of Panabaker with the teachings of Nagai in order to achieve the present invention.

For all of the reasons set forth above, independent claim 1 is believed to be allowable over the applied art. However, if the present rejection is maintained, additional detail regarding the presence of the recited claim features in the applied art, as well as the asserted motivation to combine Nagai and Panabaker, is respectfully requested.

Independent claims 11, 29 and 33 are directed to a method and apparatuses for use in receiving programming content, in which plural chunk files and a manifest file are received. The chunk files include chunks of data that together make up programming content, the programming content including (i) a software program and/or (ii) content for playing on an electronic device. The manifest file includes information describing how to execute and/or play the chunks of data. The chunks of data are stored and are executed and/or played according to the information in the manifest file. At least one of the received chunk files is received electronically and at least one of the received chunk files is received on a physical storage medium.

For example, the applied art is not seen to disclose or to suggest at least the features of receiving programming content that has been divided into chunk files, together with a manifest file that includes information describing how to execute and/or play the chunks of data, where at least one of the received chunk files is received electronically and at least one of the received chunk files is received on a physical storage medium. In fact, the Office Action does not even allege that any permissible combination of Nagai and Panabaker discloses or suggests this feature of the invention.

Accordingly, independent claims 11, 29 and 33 are believed to be allowable over the applied art.

The other rejected claims in this application depend from the independent claims discussed above, and are therefore believed to be allowable for at least the same reasons. Because each dependent claim also defines an additional aspect of the invention, however, the individual reconsideration of each on its own merits is respectfully requested.

Newly added dependent claims 25-28, 31 and 32 are supported, e.g., at page 3 line 32 to page 4 line 2 and page 5 line 30 to page 6 line 8 of the Specification. The additional features recited in such claims, particularly in combination with the features recited in their respective independent claims, are not believed to be disclosed as suggested by the applied art.

New dependent claim 30 corresponds to pending dependent claim 12 and is believed to be allowable for the same reasons.

In order to sufficiently distinguish Applicants' invention from the applied art, the foregoing remarks emphasize several of the differences between the applied art and Applicants' invention. However, no attempt has been made to categorize each novel and unobvious difference. Applicants' invention comprises all of the elements and all of the interrelationships between those elements recited in the claims. It is believed that for each claim the combination of such elements and interrelationships is not disclosed, taught or suggested by the applied art. It is therefore believed that all claims in the application are fully in condition for allowance, and an indication to that effect is respectfully requested.

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